

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

SMARTMATIC USA CORP.,
SMARTMATIC INTERNATIONAL
HOLDING B.V. and SGO CORPORATION
LIMITED,

Plaintiffs,

v.

MICHAEL J. LINDELL and MY PILLOW,
INC.,

Defendants.

Case No. 22-cv-00098-WMW-JFD

DECLARATION OF WILLIAM J. O'BRIEN

I, William J. O'Brien, declare:

1. I am a practicing attorney, a member of the law firm One LLP, and an active member of the California State Bar. I represent the County of Los Angeles, California, regarding certain matters related to its Voting Solutions for All People (VSAP) election system developed and used by the Los Angeles County Registrar-Recorder/County Clerk.

2. I have reviewed the declaration of Abraham S. Kaplan dated September 1, 2023, including Paragraph 10, where he makes assertions about our June 14, 2023, telephone conversation. Some of those assertions are not accurate.¹


¹ For purposes of this declaration, I am not undertaking a complete or comprehensive response to the declaration, but instead focusing on a single issue.

3. During our conversation, I did tell Mr. Kaplan that the master reference version of the source code for the software installed in VSAP ballot marking devices (BMDs) used in Los Angeles County for the 2020 general election was not in possession of the County but had been placed in escrow. However, I do not recall telling Mr. Kaplan that that source code had been “deleted” from escrow, and I am confident that I did not tell him that.

4. It is conceivable that I mentioned that I believed the mandatory minimum time for maintaining the 2020 VSAP BMD source code in escrow may have expired, and that Mr. Kaplan misunderstood that as meaning that the source code had been deleted from escrow. Or, he may have misunderstood a statement by me that the software used in VSAP BMDs for the 2022 election was a different version from the 2020 software (so the earlier version was deleted from the BMDs—not from escrow—before the 2022 election). Or, I suppose Mr. Kaplan may have misunderstood some aspect of our discussion of other devices that he had mistakenly believed were used in the 2020 election in Los Angeles County. In any case, when I spoke to Mr. Kaplan, I did not know whether the 2020 VSAP BMD source code was still in escrow and would not have told him that it was not.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 15, 2023.



William J. O'Brien